



Rep. Thomas M. Bennett

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FISCAL NOTE ACT
MAY APPLY

10100HB0344ham004

LRB101 04640 CPF 58437 a

1 AMENDMENT TO HOUSE BILL 344

2 AMENDMENT NO. _____. Amend House Bill 344 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the
5 Authorized Electronic Monitoring in Community-Integrated
6 Living Arrangements and Developmental Disability Facilities
7 Act.

8 Section 5. Definitions. As used in this Act:

9 "Authorized electronic monitoring" means the placement and
10 use of an electronic monitoring device by a resident in his or
11 her room in accordance with this Act.

12 "Community-integrated living arrangement" has the meaning
13 given to that term in Section 3 of the Community-Integrated
14 Living Arrangements Licensure and Certification Act.

15 "Department" means the Department of Human Services.

16 "Developmental disability facility" means a facility or

1 section of a facility that is licensed by, operated by, or is
2 under contract with the State or a political subdivision of the
3 State and that admits persons with developmental disabilities
4 for residential services.

5 "Electronic monitoring device" means a surveillance
6 instrument with a fixed position video camera or an audio
7 recording device, or a combination thereof, that is installed
8 in a resident's room under the provisions of this Act and
9 broadcasts or records activity or sounds occurring in the room.

10 "Resident" means a person residing in a
11 community-integrated living arrangement or developmental
12 disability facility.

13 "Staff" includes individuals providing supervisory of
14 other services at a community-integrated living arrangement or
15 developmental disability facility.

16 Section 10. Authorized electronic monitoring.

17 (a) A resident shall be permitted to conduct authorized
18 electronic monitoring of the resident's room through the use of
19 electronic monitoring devices placed in the room pursuant to
20 this Act.

21 (b) Nothing in this Act shall be construed to allow the use
22 of an electronic monitoring device to take still photographs or
23 for the nonconsensual interception of private communications.

24 Section 15. Consent.

1 (a) Except as otherwise provided in this subsection, a
2 resident, a resident's plenary guardian of the person, or the
3 parent of a resident under the age of 18 must consent in
4 writing on a notification and consent form prescribed by the
5 Department to the authorized electronic monitoring in the
6 resident's room.

7 (b) A resident or roommate may consent to authorized
8 electronic monitoring with any conditions of the resident's
9 choosing, including, but not limited to, the list of standard
10 conditions provided in paragraph (7) of subsection (b) of
11 Section 20. A resident or roommate may request that the
12 electronic monitoring device be turned off or the visual
13 recording component of the electronic monitoring device be
14 blocked at any time.

15 (c) Prior to the authorized electronic monitoring, a
16 resident must obtain the written consent of any other resident
17 residing in the room on the notification and consent form
18 prescribed by the Department. Except as otherwise provided in
19 this subsection, a roommate, a roommate's plenary guardian of
20 the person, or the parent of a roommate under the age of 18
21 must consent in writing to the authorized electronic monitoring
22 in the resident's room.

23 (c-7) Any resident previously conducting authorized
24 electronic monitoring must obtain consent from any new roommate
25 before the resident may resume authorized electronic
26 monitoring. If a new roommate does not consent to authorized

1 electronic monitoring and the resident conducting the
2 authorized electronic monitoring does not remove or disable the
3 electronic monitoring device, the staff shall turn off the
4 device.

5 (d) Consent may be withdrawn by the resident or roommate at
6 any time, and the withdrawal of consent shall be documented in
7 the resident's clinical record. If a roommate withdraws consent
8 and the resident conducting the authorized electronic
9 monitoring does not remove or disable the electronic monitoring
10 device, the staff may turn off the electronic monitoring
11 device.

12 (e) If a resident who is residing in a shared room wants to
13 conduct authorized electronic monitoring and another resident
14 living in or moving into the same shared room refuses to
15 consent to the use of an electronic monitoring device, the
16 staff shall make a reasonable attempt to accommodate the
17 resident who wants to conduct authorized electronic
18 monitoring.

19 Section 20. Notice to the staff.

20 (a) Authorized electronic monitoring may begin only after a
21 notification and consent form prescribed by the Department has
22 been completed and submitted to the staff.

23 (b) A resident shall notify the staff in writing of his or
24 her intent to install an electronic monitoring device by
25 providing a completed notification and consent form prescribed

1 by the Department that must include, at minimum, the following
2 information:

3 (1) the resident's signed consent to electronic
4 monitoring or the signature of the person consenting on
5 behalf of the resident in accordance with Section 15 of
6 this Act; if a person other than the resident signs the
7 consent form, the form must document the following:

8 (A) the date the resident was asked if he or she
9 wants authorized electronic monitoring to be conducted
10 in accordance with subsection (a-5) of Section 15;

11 (B) who was present when the resident was asked;
12 and

13 (C) an acknowledgment that the resident did not
14 affirmatively object; and

15 (2) the resident's roommate's signed consent or the
16 signature of the person consenting on behalf of the
17 resident in accordance with Section 15 of this Act, if
18 applicable, and any conditions placed on the roommate's
19 consent; if a person other than the roommate signs the
20 consent form, the form must document the following:

21 (A) the date the roommate was asked if he or she
22 wants authorized electronic monitoring to be conducted
23 in accordance with subsection (a-5) of Section 15;

24 (B) who was present when the roommate was asked;
25 and

26 (C) an acknowledgment that the roommate did not

1 affirmatively object; and

2 (3) the type of electronic monitoring device to be
3 used;

4 (4) any installation needs, such as mounting of a
5 device to a wall or ceiling;

6 (5) the proposed date of installation for scheduling
7 purposes;

8 (6) a copy of any contract for maintenance of the
9 electronic monitoring device by a commercial entity;

10 (7) a list of standard conditions or restrictions that
11 the resident or a roommate may elect to place on use of the
12 electronic monitoring device, including, but not limited
13 to:

14 (A) prohibiting audio recording;

15 (B) prohibiting broadcasting of audio or video;

16 (C) turning off the electronic monitoring device
17 or blocking the visual recording component of the
18 electronic monitoring device for the duration of an
19 exam or procedure by a health care professional;

20 (D) turning off the electronic monitoring device
21 or blocking the visual recording component of the
22 electronic monitoring device while dressing or bathing
23 is performed; and

24 (E) turning the electronic monitoring device off
25 for the duration of a visit with a spiritual advisor,
26 ombudsman, attorney, financial planner, intimate

1 partner, or other visitor; and

2 (8) any other condition or restriction elected by the
3 resident or roommate on the use of an electronic monitoring
4 device.

5 (c) A copy of the completed notification and consent form
6 shall be placed in the resident's and any roommate's clinical
7 record and a copy shall be provided to the resident and his or
8 her roommate, if applicable.

9 (d) The Department shall prescribe the notification and
10 consent form required in this Section no later than 60 days
11 after the effective date of this Act. If the Department has not
12 prescribed such a form by that date, the Office of the Attorney
13 General shall post a notification and consent form on its
14 website for resident use until the Department has prescribed
15 the form.

16 Section 25. Cost and installation.

17 (a) A resident choosing to conduct authorized electronic
18 monitoring must do so at his or her own expense, including
19 paying purchase, installation, maintenance, and removal costs.

20 (b) If a resident chooses to install an electronic
21 monitoring device that uses Internet technology for visual or
22 audio monitoring, that resident is responsible for contracting
23 with an Internet service provider and installing a secure,
24 password-protected network.

25 (c) The staff shall make a reasonable attempt to

1 accommodate the resident's installation needs, including, but
2 not limited to, allowing access to a telecommunications or
3 equipment room. Staff has the burden of proving that a
4 requested accommodation is not reasonable.

5 (d) The electronic monitoring device must be placed in a
6 conspicuously visible location in the room.

7 (e) The resident may not be charged a fee for the cost of
8 electricity used by an electronic monitoring device.

9 (f) All electronic monitoring device installations and
10 supporting services shall comply with the requirements of the
11 edition of the National Fire Protection Association (NFPA) 101
12 Life Safety Code in force at the time of installation and shall
13 remain in compliance with that or any subsequent edition of
14 NFPA 101 enforced pursuant to Part 483 of Title 42 of the Code
15 of Federal Regulations.

16 Section 27. Assistance program.

17 (a) Subject to appropriation, the Department shall
18 establish a program to assist residents receiving medical
19 assistance under Article V of the Illinois Public Aid Code in
20 accessing authorized electronic monitoring.

21 (b) The Department shall distribute up to \$50,000 in funds
22 on an annual basis to residents receiving medical assistance
23 under Article V of the Illinois Public Aid Code for the
24 purchase and installation of authorized electronic monitoring
25 devices.

1 (c) Applications for funds and disbursement of funds must
2 be made in a manner prescribed by the Department.

3 Section 30. Notice to visitors.

4 (a) If a resident of a community-integrated living
5 arrangement or developmental disability facility conducts
6 authorized electronic monitoring, a sign shall be clearly and
7 conspicuously posted at all building entrances accessible to
8 visitors. The notice must be entitled "Electronic Monitoring"
9 and must state, in large, easy-to-read type, "The rooms of some
10 residents may be monitored electronically by or on behalf of
11 the residents."

12 (b) A sign shall be clearly and conspicuously posted at the
13 entrance to a resident's room where authorized electronic
14 monitoring is being conducted. The notice must state, in large,
15 easy-to-read type, "This room is electronically monitored."

16 (c) Staff is responsible for installing and maintaining the
17 signage required in this Section.

18 Section 40. Obstruction of electronic monitoring devices.

19 (a) A person or entity is prohibited from knowingly
20 hampering, obstructing, tampering with, or destroying an
21 electronic monitoring device installed in a resident's room
22 without the permission of the resident or the individual who
23 consented on behalf of the resident in accordance with Section
24 15 of this Act.

1 (b) A person or entity is prohibited from knowingly
2 hampering, obstructing, tampering with, or destroying a video
3 or audio recording obtained in accordance with this Act without
4 the permission of the resident or the individual who consented
5 on behalf of the resident in accordance with Section 15 of this
6 Act.

7 (c) A person or entity that violates this Section is guilty
8 of a Class B misdemeanor. A person or entity that violates this
9 Section in the commission of or to conceal a misdemeanor
10 offense is guilty of a Class A misdemeanor. A person or entity
11 that violates this Section in the commission of or to conceal a
12 felony offense is guilty of a Class 4 felony.

13 (d) It is not a violation of this Section if a person or
14 staff turns off the electronic monitoring device or blocks the
15 visual recording component of the electronic monitoring device
16 at the direction of the resident or the person who consented on
17 behalf of the resident in accordance with Section 15 of this
18 Act.

19 Section 45. Dissemination of recordings.

20 (a) Staff may not access any video or audio recording
21 created through authorized electronic monitoring without the
22 written consent of the resident or the person who consented on
23 behalf of the resident in accordance with Section 15 of this
24 Act.

25 (b) Except as required under the Freedom of Information

1 Act, a recording or copy of a recording made pursuant to this
2 Act may only be disseminated for the purpose of addressing
3 concerns relating to the health, safety, or welfare of a
4 resident or residents.

5 (c) The resident or person who consented on behalf of the
6 resident in accordance with Section 15 of this Act shall
7 provide a copy of any video or audio recording to parties
8 involved in a civil, criminal, or administrative proceeding,
9 upon a party's request, if the video or audio recording was
10 made during the time period that the conduct at issue in the
11 proceeding allegedly occurred.

12 Section 50. Admissibility of evidence. Subject to
13 applicable rules of evidence and procedure, any video or audio
14 recording created through authorized electronic monitoring in
15 accordance with this Act may be admitted into evidence in a
16 civil, criminal, or administrative proceeding if the contents
17 of the recording have not been edited or artificially enhanced
18 and the video recording includes the date and time the events
19 occurred.

20 Section 55. Report. Staff of each community-integrated
21 living arrangement and developmental disability facility shall
22 report to the Department, in a manner prescribed by the
23 Department, the number of authorized electronic monitoring
24 notification and consent forms received annually. The

1 Department shall report the total number of authorized
2 electronic monitoring notification and consent forms received
3 by staff of community-integrated living arrangements and
4 developmental disability facilities to the Office of the
5 Attorney General annually.

6 Section 60. Liability.

7 (a) A community-integrated living arrangement or
8 developmental disability facility is not civilly or criminally
9 liable for the inadvertent or intentional disclosure of a
10 recording by a resident or a person who consents on behalf of
11 the resident for any purpose not authorized by this Act.

12 (b) A community-integrated living arrangement or
13 developmental disability facility is not civilly or criminally
14 liable for a violation of a resident's right to privacy arising
15 out of any electronic monitoring conducted pursuant to this
16 Act.

17 Section 65. Rules. The Department shall adopt rules
18 necessary to administer and enforce any Section of this Act.
19 Rulemaking shall not delay the full implementation of this Act.

20 Section 900. The Community-Integrated Living Arrangements
21 Licensure and Certification Act is amended by adding Section
22 14.5 as follows:

1 (210 ILCS 135/14.5 new)

2 Sec. 14.5. Authorized electronic monitoring of a
3 resident's room.

4 (a) A resident shall be permitted to conduct authorized
5 electronic monitoring of the resident's room through the use of
6 electronic monitoring devices placed in the room pursuant to
7 the Authorized Electronic Monitoring in Community-Integrated
8 Living Arrangements and Developmental Disability Facilities
9 Act.

10 (b) No person shall:

11 (1) intentionally retaliate or discriminate against
12 any resident for consenting to authorized electronic
13 monitoring under the Authorized Electronic Monitoring in
14 Community-Integrated Living Arrangements and Developmental
15 Disability Facilities Act; or

16 (2) prevent the installation or use of an electronic
17 monitoring device by a resident who has provided the staff
18 of the community-integrated living arrangement with notice
19 and consent as required in Section 20 of the Authorized
20 Electronic Monitoring in Community-Integrated Living
21 Arrangements and Developmental Disability Facilities Act.

22 A violation of this subsection is a business offense,
23 punishable by a fine not to exceed \$1,000. The State's Attorney
24 of the county in which the community-integrated living
25 arrangement is located, or the Attorney General, shall be
26 notified by the Director of any violations of this subsection.

1 Section 905. The Mental Health and Developmental
2 Disabilities Code is amended by adding Section 2-116 as
3 follows:

4 (405 ILCS 5/2-116 new)

5 Sec. 2-116. Authorized electronic monitoring of a
6 recipient's room.

7 (a) A recipient who resides in a developmental disability
8 facility shall be permitted to conduct authorized electronic
9 monitoring of the recipient's room through the use of
10 electronic monitoring devices placed in the room pursuant to
11 the Authorized Electronic Monitoring in Community-Integrated
12 Living Arrangements and Developmental Disability Facilities
13 Act.

14 (b) No person shall:

15 (1) intentionally retaliate or discriminate against
16 any recipient for consenting to authorized electronic
17 monitoring under the Authorized Electronic Monitoring in
18 Community-Integrated Living Arrangements and Developmental
19 Disability Facilities Act; or

20 (2) prevent the installation or use of an electronic
21 monitoring device by a recipient who resides in a
22 developmental disability facility who has provided the
23 staff of the developmental disability facility with notice
24 and consent as required in Section 20 of the Authorized

1 Electronic Monitoring in Community-Integrated Living
2 Arrangements Act and Developmental Disability Facilities
3 Act.

4 A violation of this subsection is a business offense,
5 punishable by a fine not to exceed \$1,000. The State's Attorney
6 of the county in which the developmental disability facility is
7 located, or the Attorney General, shall be notified by the
8 Director of any violations of this subsection.

9 Section 999. Effective date. This Act takes effect January
10 1, 2020."